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EXAMINER	
YEN, ERIC L	

ART UNIT	PAPER NUMBER
2626	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/673,679	PETTAY ET AL.	
	Examiner	Art Unit	
	ERIC YEN	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 July 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18 and 20-63* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *33-61* is/are rejected.

7)☒ Claim(s) *1-18,20-32,62 and 63* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. In response to the Office Action mailed 6/17/10, applicant has submitted an amendment filed 7/29/10.

Claims 1, 23, 33, 60-63, have been amended.

Response to Arguments

1. Applicant's arguments with respect to claims 1, 23, 33, 60-63 have been considered but are moot in view of the new ground(s) of rejection.

While applicant has addressed the antecedent basis issue in Claims 1, 23, 62, and 63 (Office Action mailed 6/17/10, page 6), where there is still only one standard to which an indefinite one of the multiple scores is compared against (i.e. "the standard defining a required score for the panel-level segment to be declared as a match to the corresponding portion of the first data", where THE panel-level segment can refer to any one panel-level segment in "the panel-level segments").

Applicant's amendments to Claims 33, 60, and 61, did address a separate issue where multiple panel-level segments were all being compared to the same thing, but effectively changed the claims to incorporate the same issues as the prior versions of Claims 1, 23, 62, and 63, where it is now not clear which of the panel-level segments and corresponding portions of first data the standard refers to, and which score of the multiple scores is being evaluated against the standard.

As with the prior versions of Claims 1, 23, 62, and 63, there is an ambiguity in currently amended claims 33, 60, and 61, due to the antecedent basis of "the score" and "the panel-level segment" having more than one "score" and "panel-level segment" to refer to.

In light of applicant's amendments to Claims 1, 23, 62, and 63 (and corresponding Remarks), and also based on the previous indication of allowable subject matter in the Office Action mailed 6/17/10, it is not clear if applicant intended for the scopes of claims 33, 60, and 61, to be:

1. Identical in scope to claim 1, where the standard defines a required score for each of the panel-level segments (i.e. applicant seems to be, based on the Remarks on page 13, claiming that each and every one of the different ["a score is assigned to each", means there are multiple scores since there are multiple segments claimed] claimed panel-level-segment scores is compared to the same standard, supported by the "static" pre-determined standards described on page 15, since applicant provides a separate example of "varying" standards as individual segments having corresponding scores [one requiring 80% match and another requiring 90% match])

2. Where each score has its own standard/required-score (corresponding to the "varying" standard embodiment on page 15, discussed above, where 80% might be enough for one segment but 90% is required for another) since the claim language says one score has one standard, and can refer to any one of the multiple scores, which suggests that applicant might have intended that each score has one standard (i.e. its own standard, instead of being compared to the same standard).

The varying standard was what was previously indicated as allowable, and so it is possible applicant was trying to claim the varying standard where each and every segment has its own standard in order to obtain different coverage for different embodiments. This may also be the case also because applicant presumably would have amended claims 33, 60, and 61, in the same manner as Claims 1, 23, 62, and 63 if applicant wanted to claim the static embodiment.

On the other hand, it is possible that applicant was trying to claim the static standard because applicant has been consistently amending the independent claims in the same or similar manner in past responses. This may also be the case because applicant's different medium and system claims in 60-63 have other variations in scope (e.g. Claims 60-61 include "creating at least one voice record" and claims "corresponding portion of first data" as opposed to "corresponding expected text), and so it is possible that these are the variations in patent coverage that applicant intended for the separate system and medium claims.

Therefore, the antecedent basis issues of Claims 33, 60, and 61 (identical to the previous issues with Claims 1, 23, 62, 63) which replaced the previous issues with Claims 33, 60, and 61 (where there could only be one score because there was only one piece of data being compared, whereas now there are multiple pieces of data which could each have their own score) render the claims vague and indefinite in a manner that cannot be easily resolved because it depends on what applicant intended for the claim scope to be, which cannot be determined because there are multiple plausible intended meanings, as discussed above.

For clarity of the record:

No 35 USC 101 issues are present regarding Claims 60 and 63 because they recite "tangibly" embodying, which excludes transitory embodiments because carrier waves, signals, etc. are not tangible.

No double patenting issues are present with parent application 09/785,048 (US 7,191,133) because 09/785,048 is directed to panels corresponding to a single offer of a good or service" and does not incorporate the scoring limitations of the currently amended claims (e.g. while Claims 16-17 recite scoring for each panel, it does not teach the standard defining the required score for each panel-level segment to be a match).

No double patenting issues are present with US 7,664,641 because it does not teach the timestamping and panel-level segment score comparison with a SINGLE standard (e.g. claim 19 only describes generally where the panels are evaluated, and claim 18 describes scoring each panel, but not where every score is compared to the standard defining a required score for each panel-level segment to be a match, specifically; in addition to not teaching the time-stamping and panel-level segmenting)

No double patenting issues are present in US 7,739,115 because the claims are directed to evaluating a SINGLE score against a single static/varying standard (even though the score is derived from assorted thresholds assigned to a plurality of panels) and the present application's claims are directed to specifically having match scores for each panel/panel-level-segment, EACH of the MULTIPLE scores being compared

against the SINGLE standard, and where the standard is specifically for determining a match between a panel-level segment and its corresponding text (while the multiple thresholds of separate panels imply some sort of score/level being matched to the threshold, the current application's claims are directed to those panel-scores/levels being compared to the SAME SINGLE threshold)

Claim Objections

2. Claims 1, 23, 33, 60, 61, 62, 63, are objected to because of the following informalities:

Claims 1, 23, 62, and 63, were amended to resolve the antecedent basis issues of "the score" and "the panel-level segment", but it would be more clear if the "evaluating..." limitation recited "evaluating the at least one voice interaction with at least one automatic speech recognition component adapted to analyze the at least one voice interaction, wherein the at least one voice interaction is divided into viewable panel-level segments and a panel-level time displacement stamp is assigned to each of the panel-level segments, wherein each panel-level segment is compared with a corresponding expected text, wherein a confidence level threshold of the automatic speech recognition component is used to evaluate the accuracy of each panel-level segment based on an output of a comparison between each panel-level segment and its (respective?) corresponding expected text, wherein a score is assigned to each panel-level segment, each score indicating a match accuracy between the panel-level segment to which it is assigned and its assigned panel-level segment's corresponding

expected text, wherein the scores are evaluated against a standard, the standard defining a required score for each of the panel-level segments to be declared as a match to their (respective?) corresponding expected texts".

Some of the proposed claim language above may not be necessary (particularly the word respectively, which may be adequately covered simply by the word corresponding) and variations that applicant may think of may be better suited to encompass what applicant is trying to claim, and the proposed language itself may not resolve all issues.

The idea of the above proposed language is that recitations of "the panel-level segment" and "the corresponding expected text" can be considered to have antecedent basis issues even though the intended meaning is fairly clear. The above proposed amendments are an attempt to map a single score to each of the panel-level segments where the score indicates the match between one panel-level segment and its corresponding expected text, without having the claim scope include where a single panel-level segment has multiple scores (e.g. reciting "score... a given one of the panel-level segments" could potentially have multiple scores mapped to the same segment because that single segment is still "a given one").

Claims 33, 60, and 61, also incorporate the same language issues.

Dependent claims 2-18, 20-32, are objected to for depending on an objected claim without resolving the issues of the objected independent claim themselves.

3. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 33-61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

See Response to Arguments, where there is an antecedent basis issue with "wherein the score is evaluated against a standard, the standard defining a required score for the panel-level segment to be declared as a match" which can refer to any one of the multiple panel-level segments and corresponding scores assigned to each panel-level segment.

This also raises the issue of what applicant's intended claim scope is (i.e. whether all scores are compared to the same threshold/standard [as presumably intended based on the Remarks] or if they each have distinct thresholds/standards [as previously indicated as allowable subject matter])

For the purposes of applying art, the examiner has interpreted Claims 33, 60, and 61, as reciting the same amended limitations as Claims 1, 23, and 62-63 where there is only one standard.

Claims 34-59 which depend directly/indirectly are rejected for not independently resolving the issues of independent Claim 33.

Allowable Subject Matter

6. The following is a statement of reasons for the indication of allowable subject matter:

Claims 1, 23, 62, and 63, are objected to in the manner discussed above, and would be allowable if the objection were addressed.

7. Claims 33-61 (assuming they were meant to encompass the same claim scope as Claims 1, 23, 62, and 63, contain the allowable subject matter and would be allowable if amended in the same manner as Claims 1, 23, 62, and 63, to overcome the 35 USC 112 rejections discussed above.

The prior art of record does not teach the combination of limitations in the independent claims, including "evaluating the at least one voice interaction with at least one automatic speech recognition component adapted to analyze the at least one voice interaction, wherein the at least one voice interaction is divided into viewable panel-level segments and a panel-level time displacement stamp is assigned to each of the panel-level segments, wherein each panel-level segment is compared with a corresponding expected text, wherein a confidence level threshold of the automatic speech recognition component is used to evaluate the accuracy of each panel-level segment based on an output of a comparison between each panel-level segment and its (respective?) corresponding expected text, wherein a score is assigned to each panel-level segment, each score indicating a match accuracy between the panel-level segment to which it is assigned and its assigned panel-level segment's corresponding expected text, wherein

the scores are evaluated against a standard, the standard defining a required score for each of the panel-level segments to be declared as a match to their (respective?) corresponding expected texts"

Shambaugh et al. (US 6,970,821) teaches determining whether the at least one agent has adequately followed the at least one script ("compare the script presented to the selected agent with the recognized words... used by the agent", col. 6, lines 4-20), by dividing the voice interaction into viewable panel-level segments ("display an initial portion of the script", col. 3, lines 53-61; where a portion is put into the screen where the portion of the screen that the portion is displayed on is a "panel") and comparing the panel-level segments to the automatic speech recognition analyzed voice interaction ("compare the script presented to the selected agent with the recognized words... used by the agent", col. 6, lines 4-20)

applying a set of action rules to an output of the comparing to direct a quality assurance action to be taken, and wherein the action rules comprise a quality assurance action taken ("scripting system may extend the storyline", col. 5, lines 28-43; "detect any differences... incorporated into script... incorporate subtleties... parenthetical instructions", col. 6, lines 4-20; "objective", col. 6, lines 28-37; where a difference between the script and agent speech is an output of the comparing and also "if there is a difference and if the agent is successful, then add the difference to the script" and "if there is a difference to be added, determine corresponding parenthetical instructions" are rules applied to the difference/output to improve the odds that sales will be successful, which assures quality).

Yuschik (US 6,526,382) teaches wherein a panel-level time displacement stamp is assigned to each panel ("menu states... and timing for the flow of a dialogue", col. 5, line 61 – col. 6, line 12; "easy to understand... signal when it is time for the user to respond", col. 14, lines 1-13).

Young et al. (US 2003/0154072; continuation of 09/535,155, filed 3/24/2000, which incorporates the cited passages) suggests scores for comparison and presumably some sort of threshold for acceptability, but not where the scores are assigned to different panel-level segmetns ("score... that measures the correspondence of the agent's speech with the provided script", paragraph 37; "readability... overwhelm callers with technical jargon", paragraph 38; where the logical response to a script with overwhelming technical jargon is to modify it, as Shambaugh does)

And where the automatic speech recognition component has a confidence level threshold ("speech recognition system's confidence", paragraph 28; where it is at least obvious that if the system has low confidence in a recognition result that it is discarded instead of accepted, and the point at which the system determines that the result is acceptable is a threshold)

The prior art, while teaching compliance and scores, does not teach the combination of limitations, including where the scores being evaluated against a threshold/standard are each and every score assigned to viewable panel-level segments with respective timestamps which are compared to a corresponding expected text to determine a match, and the threshold/standard defining a required score for EACH of the panel-level segments to be declared as a match.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC YEN whose telephone number is (571)272-4249. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on 571-272-7602. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EY 8/2/10
/Eric Yen/
Examiner, Art Unit 2626